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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,387	01/17/2002	Jian Ling Ding	17644-68	1539
33717	7590	02/12/2004	EXAMINER	
GREENBERG TRAURIG LLP 2450 COLORADO AVENUE, SUITE 400E SANTA MONICA, CA 90404			JOYNES, ROBERT M	
			ART UNIT	PAPER NUMBER
			1615	

DATE MAILED: 02/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



## DETAILED ACTION

### *Election/Restrictions*

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-11, 14-22 and 29-31, drawn to hydrocolloids comprising only polymers and auxiliaries, classified in class 514, subclass 772.
- II. Claims 12, 13 and 23-28, drawn to hydrocolloid compositions with therapeutic agents or hydrocolloid dressings, classified in class 424, subclass 443.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as mutually exclusive species in an intermediate-final product relationship. Distinctness is proven for claims in this relationship if the intermediate product is useful to make other than the final product (MPEP § 806.04(b), 3rd paragraph), and the species are patentably distinct (MPEP § 806.04(h)). In the instant case, the intermediate product is deemed to be useful as pipe gaskets or as modifiers for thermoplastic compounds and resins and the inventions are deemed patentably distinct since there is nothing on this record to show them to be obvious variants. The final products are those that include a therapeutic agent or used as a therapeutic dressing. The hydrocolloid by itself has other purposes. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if

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the examiner finds one of the inventions anticipated by the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

This application contains claims directed to the following patentably distinct species of the claimed invention:

If Group I is elected please elect from the following Species:

Species A – Claims 1, 4, 9, 11, 12, 14-17 – Hydrocolloid with EPDM polymer.

Species B – Claims 2, 5-8, 10, 13-18 – Hydrocolloid with EPDM polymer and PIB.

Species C – Claim 3 - Hydrocolloid with EPDM polymer, PIB and an ethylene propylene elastomer.

Species D – Claims 29-31 - Hydrocolloid with EPDM polymer and styrenic block copolymer.

If Group II is elected please elected from the following Species:

Species E – Claim 12 - Hydrocolloid with EPDM polymer and a therapeutic agent.

Species F – Claim 13 - Hydrocolloid with EPDM polymer, PIB and a therapeutic agent.

Species G – Claims 23-28 – A dressing.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).


Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Joyner whose telephone number is (571) 272-0597. The examiner can normally be reached on Mon.-Thurs. 8:30 - 6:00, alternate Fri. 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
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